

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7168

BILL NUMBER: HB 1401

NOTE PREPARED: Feb 4, 2004

BILL AMENDED: Feb 4, 2004

SUBJECT: Public Officers Compensation Commission.

FIRST AUTHOR: Rep. Kuzman

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill establishes the Public Officers Compensation Advisory Commission to make recommendations to the General Assembly after December 31, 2004, regarding the salaries to be paid to public officers. The bill provides that recommended increases in salaries may not exceed the change in the Indiana nonfarm income.

The bill establishes a temporary Public Officers Compensation Commission authorized to adopt rules to set the compensation of public officers beginning in 2005. It provides that the temporary commission may not increase public officers' salaries to an amount greater than the amount that the salaries would have increased if the salaries of the public officers had increased by 2.5% each year since the most recent increase in salary.

The bill provides that for purposes of computing a retirement benefit for a person who is a member of the Indiana State Teachers' Retirement Fund and who takes an unpaid leave of absence to serve in an elected position: (1) "annual compensation" includes the total amount that was not paid to the member but would have been paid to the member during the year under the member's employment contracts if the member had not taken any unpaid leave of absence to serve in an elected position; and (2) the "average of the annual compensation" means the annual compensation for the one year of service in which the member's annual compensation was highest.

The bill establishes a Judicial Salaries Fee of \$6 to be collected in certain civil actions and in certain criminal, infraction, and ordinance violation actions.

Effective Date: Upon passage; June 1, 2004; July 1, 2004; July 1, 2005.

Explanation of State Expenditures: (Revised) *Public Officers Compensation Advisory Commission:* This

bill creates a nine-member Public Officers Compensation Advisory Commission to make recommendations on the salaries of elected statewide public officials and judges. Members of the Commission are appointed by the Speaker of the House, the President of the Senate, the Governor, the Chief Justice of the Supreme Court, and the Chief Justice of the Court of Appeals. Members may neither be public officers nor public employees. The Chairman of the Commission is appointed by the Chair of the Legislative Council.

After January 1, 2005, the Commission would be required to meet at least once no later than July 1 of each even-numbered year. (At the call of the chair, the Commission may also meet more frequently.) Members of the Commission would receive a per diem and be covered for travel expenses. The Legislative Services Agency (LSA) would provide administrative support to the Commission. At the request of LSA, the State Personnel Department or the Indiana Judicial Center shall provide other support to the Commission. The Commission may also contract with consultants.

The bill appropriates to the Legislative Services Agency the funds necessary for the Commission's operation.

The Commission would meet to determine the growth in Indiana nonfarm income from the previous year to January 1 of the current year and consider information and recommendations related to public officers' salaries. Before September 1 of each even-numbered year, the Commission is required to make recommendations to the Legislative Council and the State Budget Committee on salary adjustments for public officers. The Commission may not recommend salary increases greater than the growth rate in Indiana nonfarm personal income.

After January 1, 2005, salary recommendations made by the Commission do not take effect unless enacted by the General Assembly.

Prior to January 1, 2005, the Public Officers Compensation Commission has the authority to set public officers' salaries by rule. The Commission would be required to meet between November 1 and November 15 of 2004 and receive testimony and recommendations on suitable salaries for public officials. After hearing testimony, the Commission may, if necessary, adopt rules increasing the salaries of public officers. The bill specifies that the Commission may not increase public officers' salaries to an amount greater than the amount that the salaries would have increased if the salaries of the public officers had increased by 2.5% each year since the most recent increase in salary.

If the Commission adopts a rule related to the salary of the Governor, the rule takes effect on January 10, 2005. Any increase, however, would be paid in a lump sum on July 1, 2005. If the Commission adopts a rule increasing the salaries of legislators, the increase would become effective on January 1, 2005, and be paid in a lump sum on July 1, 2005. Rules related to the salaries of other public officers would take effect on July 1, 2005.

The rulemaking authority of the Commission expires on July 1, 2005.

The impact of the Commission's actions on the state's budget is indeterminable. Any impact will depend on the actions of the Public Officers Compensation Commission. Any salary increases recommended by the Commission would not impact General Fund expenditures until FY 2006.

Teachers' Retirement Fund (TRF): The bill also provides that for purposes of determining a TRF member's pension benefits, the member's "annual compensation" includes the additional amount that would have been paid to the member under the member's employment contract if the member had not taken unpaid leave of absence during the year to serve in an elected position. This section does not affect PERF.

The salary used in the computation would be the member's base contractual salary as a teacher, rather than the partial amount based on actual teaching service for the year. The specific impact will depend upon the number of TRF members who take unpaid leaves of absence to serve in an appointed or elected position of public service for a period of time toward the end of their teaching career. Assuming the number of members in this category is small relative to the entire TRF active member population, the overall effect on TRF is likely to be small. However, the impact for affected members could be significant. For example, if the final average salary increases to \$40,000 from \$30,000, the annual TRF benefit for a 30-year teacher would increase to \$13,200 from \$9,900. The liability associated with the increased benefit for the 30-year teacher who would retire at age 60, for example, would be over \$30,000. The fund affected is the state General Fund for the Closed Plan.

Explanation of State Revenues: *Judicial Salaries Fee:* The bill establishes a Judicial Salaries Fee of \$6 to be collected in certain civil actions and in certain criminal, infraction, and ordinance violation actions. The fee would begin to be assessed effective July 1, 2004. Circuit court clerks and clerks of city and town courts would be required to remit fee collections to the Auditor of State semiannually. Revenue collected from this fee will be deposited into the state General Fund. The fee is expected to generate about \$6.3 M each year.

Secondary Impact: If legislators', judges', and court officers' salaries are increased, the additional income would be subject to the state's 3.4% income tax. To the extent that any additional income is spent on taxable items, Sales Tax revenue would also increase.

Explanation of Local Expenditures:

Explanation of Local Revenues: Counties with a local option income tax may experience a minimal increase in income tax revenue.

State Agencies Affected: Public Officers; Legislators; Justices of the Supreme Court; Judges of the Court of Appeals; Legislative Services Agency; Teachers' Retirement Fund; State Personnel Department; State Budget Agency; Indiana Judicial Center.

Local Agencies Affected: Trial Court Judges; Prosecuting Attorneys; local school corporations with members in TRF; court clerks.

Information Sources: Bureau of Economic Analysis; Division of State Court Administration.

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